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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-853]

Certain Crystalline Silicon Photovoltaic Products from Taiwan: Final Results of Antidumping Duty Administrative Review; 2016-2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) continues to find that manufacturers/exporters of certain crystalline silicon photovoltaic products (solar products) sold solar products at less than normal value during the period of review (POR), February 1, 2016, through January 31, 2017.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3936, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 20, 2017, Commerce published the *Preliminary Results* of this administrative review.¹ On January 26, 2018, Commerce published *Amended Preliminary*

¹ See *Certain Crystalline Silicon Photovoltaic Products from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2016–2017*, 82 FR 60370 (December 20, 2017) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

*Results.*² For the events that occurred since the *Preliminary Results* and *Amended Preliminary Results*, see the Issues and Decision Memorandum.³ These final results cover 33 companies.⁴ Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018.⁵ As a result, the revised deadline for the final results of this review was April 23, 2018. On April 5, 2018, Commerce postponed the final results of this review until May 22, 2018.⁶ On May 21, 2018, Commerce postponed the final results of this review until June 21, 2018.⁷

Scope of the Order

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. Merchandise covered by this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope is dispositive.

² See *Certain Crystalline Silicon Photovoltaic Products from Taiwan: Amended Preliminary Results and Preliminary Determination of No Shipments*, 83 FR 3674 (January 26, 2018) (*Amended Preliminary Results*).

³ See Issues and Decision Memorandum (IDM) dated concurrently with this notice and incorporated herein by reference.

⁴ The 33 companies consist of one mandatory respondent, 18 respondents not individually examined, and 14 companies for which we have reached a “no shipments” final finding.

⁵ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

⁶ See Memorandum, *Certain Crystalline Silicon Photovoltaic Products from Taiwan: Extension of Deadline for Final Results of Antidumping Duty Administrative Review*,” dated April 5, 2018.

⁷ See Memorandum, *Certain Crystalline Silicon Photovoltaic Products from Taiwan: Second Extension of Deadline for Final Results of Antidumping Duty Administrative Review*,” dated May 21, 2018.

For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum, which is hereby adopted with this notice. A list of the issues which parties raised, and to which we responded in the Issues and Decision Memorandum, can be found in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we made certain changes to the *Preliminary Results*. Specifically, we have determined to base Motech Industries, Inc. (Motech)'s cost of production on the unadjusted cost of production in its books and records, and we have excluded sales to one U.S. customer from the margin calculation, due to the lack of substantial evidence on the record that the sales were made to customers in the United States. For a full discussion of these changes, *see* the Issues and Decision Memorandum.

Final Determination of No Shipments

In the *Amended Preliminary Results*, Commerce preliminarily determined that 14 companies had no shipments during the POR.⁸ These companies are: Boviet Solar Technology Co., Ltd., Baoding Jiasheng Photovoltaic Technology Co., Ltd., Baoding Tianwei Yingli New Energy Resources Co., Ltd., Beijing Tianneng Yingli New Energy Resources Co., Ltd., E-TON Solar Tech. Co., Ltd., Hainan Yingli New Energy Resources Co., Ltd., Hengshui Yingli New Energy Resources Co., Ltd., Inventec Energy Corporation, Lixian Yingli New Energy Resources Co., Ltd., Shenzhen Yingli New Energy Resources Co., Ltd., Sunengine Corporation Ltd., Tianjin Yingli New Energy Resources Co., Ltd., Yingli Energy (China) Co., Ltd., and Yingli Green Energy International Trading Company Limited.

Following publication of the *Amended Preliminary Results*, Commerce issued a no-shipment inquiry to U.S. Customs and Border Protection (CBP), and received a response to this inquiry from CBP.⁹ We received one comment from interested parties regarding these companies, from Inventec Solar Energy Corporation and its affiliates, Inventec Energy Corporation and E-TON Solar Tech. Co., Ltd., which confirmed Commerce's preliminary finding that Inventec Solar Energy Corporation had shipments, but that E-TON Solar Tech. Co., Ltd., and Inventec Energy Corporation did not have shipments.

Because the record contains no evidence to the contrary, we continue to find that these 14 companies made no shipments during the POR. Accordingly, consistent with Commerce's practice, we will instruct CBP to liquidate any existing entries of merchandise produced by these

⁸ See *Amended Preliminary Results*, 83 FR at 3674.

⁹ See Memorandum, "Response by U.S. Customs and Border Protection to Commerce's No Shipments Inquiry," dated February 21, 2018.

14 companies, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.¹⁰

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual review in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}." In this review, we calculated a weighted-average dumping margin for Motech that is not zero, *de minimis*, or determined entirely on the basis of facts available, and have applied this rate to the non-examined companies.

Final Results of Review

Commerce determines that the following weighted-average dumping margins exist for the period February 1, 2016 through January 31, 2017:

¹⁰ See, e.g., *Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989 (September 17, 2010).

Manufacturer/Exporter	Weighted-Average Margin (percent)
Motech Industries, Inc.	1.33
AU Optronics Corporation	1.33
Canadian Solar Inc.	1.33
Canadian Solar International, Ltd	1.33
Canadian Solar Manufacturing (Changshu), Inc.	1.33
Canadian Solar Manufacturing (Luoyang), Inc.	1.33
Canadian Solar Solution Inc.	1.33
EEPV Corp	1.33
Gintech Energy Corporation	1.33
Inventec Solar Energy Corporation	1.33
Kyocera Mexicana S.A. de C.V	1.33
Neo Solar Power Corporation	1.33
Sino-American Silicon Products Inc. and Solartech Energy Corp	1.33
Sunrise Global Solar Energy	1.33
Trina Solar (Schweiz) AG	1.33
Trina Solar (Singapore) Science and Technology Pte Ltd	1.33
TSEC Corporation	1.33
Vina Solar Technology Co., Ltd	1.33
Win Win Precision Technology Co., Ltd	1.33

Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Duty Assessment

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries of subject

merchandise in accordance with the final results of this review.¹¹ Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this administrative review in the *Federal Register*.

Commerce calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, and Commerce will direct CBP to assess importer- (or customer-) specific assessment rates based on the resulting per-unit rates.¹² Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis* (i.e., 0.50 percent), Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.¹³ Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis*, Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹⁴

For the companies which were not selected for individual review, we will assign an assessment rate based on the methodology described in the “Rates for Non-Examined Companies” section, above.

Consistent with Commerce’s assessment practice, for entries of subject merchandise during the POR produced by Motech, or the non-examined companies, for which the producer did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.¹⁵

¹¹ In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012).

¹² *Id.*

¹³ *Id.*

¹⁴ See 19 CFR 351.106(c)(2).

¹⁵ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

As noted in the “Final Determination of No Shipments” section, above, Commerce will instruct CBP to liquidate any existing entries of merchandise produced by the “no shipment” companies, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for the companies listed in these final results will be equal to the weighted-average dumping margins established in the final results of this review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment in which the company was reviewed; (3) if the exporter is not a firm covered in this review or the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 19.50 percent,¹⁶ the all-others rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to

¹⁶ See *Certain Crystalline Silicon Photovoltaic Products: Final Determination of Sales at Less Than Fair Value*, 79 FR 76966 (December 23, 2014).

liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 351.221(b)(5).

Dated: June 21, 2018.

Gary Taverman
Deputy Assistance Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. SUMMARY
- II. LIST OF ISSUES
- III. BACKGROUND
- IV. SCOPE OF THE ORDER
- V. DISCUSSION OF THE ISSUES
 - Comment 1: Whether Motech Had Actual or Constructive Knowledge of U.S. Sales to a Specific U.S. Customer.
 - Comment 2: Whether Motech's Contract Numbers Should be Made Public for Purposes of Liquidating Entries
 - Comment 3: Correction of a Cell Reference in the Preliminary Cost Calculations
 - Comment 4: Whether Commerce Should Assign Cell Grades to Prime and Non-Prime Categories for Normal Value Calculation and Model Matching
 - Comment 5: Whether the Draft Liquidation Instructions Properly Reference the "All Others" Rate
 - Comment 6: Whether the Motech Liquidation Instructions Instruct CBP to Liquidate Exports by Trina Schweiz and Trina Singapore at the "All Others" Rate
- VI. RECOMMENDATION

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